

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>IDAHO POWER COMPANY FOR APPROVAL</b>	)	<b>CASE NO. IPC-E-03-01</b>
<b>OF AN AGREEMENT FOR SALE AND</b>	)	
<b>PURCHASE OF FIRM ELECTRIC ENERGY</b>	)	<b>NOTICE OF APPLICATION</b>
<b>BETWEEN IDAHO POWER COMPANY AND</b>	)	
<b>TIBER MONTANA LLC.</b>	)	<b>NOTICE OF MODIFIED</b>
	)	<b>PROCEDURE</b>
	)	
	)	<b>NOTICE OF COMMENT/</b>
	)	<b>PROTEST DEADLINE</b>

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YOU ARE HEREBY NOTIFIED that on February 20, 2003, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a Firm Energy Sales Agreement (Agreement) between Idaho Power Company and Tiber Montana LLC (Tiber).

Tiber proposes to design, construct, install, own, operate and maintain a 7.5 MW hydroelectric generating facility (project) located on the outlet works of the existing Tiber Dam. The Tiber Dam is located 15 miles South of the City of Chester in Liberty County, Montana. Tiber warrants that the project is a "qualifying facility" (QF), as that term is used and defined in the Public Utilities Regulatory Policies Act of 1978 (PURPA).

Idaho Power represents that the February 3, 2003, Agreement with Tiber is pursuant to rates, terms and conditions approved by the Commission. Reference Case No. GNR-E-02-1, Order Nos. 29069 and 29124. The Agreement is for a 20-year term and commits Tiber to deliver energy to the Company only during the months of May, June, July, August, September and October of each contract year. Tiber's project is located outside of Idaho Power's service territory. The entity transmitting the project's power to Idaho Power's transmission system (transmitting entity), Northwestern Energy, has purportedly agreed to "firm" all energy deliveries from Tiber to Idaho Power. Reference Agreement Section 9. This arrangement will result in flat monthly firm energy being scheduled into the Idaho Power system.

Idaho Power states that certain terms and conditions of the submitted Agreement reflect updated and/or revised contract language in conformance with (1) current IPUC Orders,

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(2) current technologies and (3) current utility energy standards. The included changes can be briefly described as follows:

1. Measurement of the 10 MW rating

In lieu of a reference to nameplate rating, Idaho Power and Tiber have agreed to include the concept of “optional energy.” Optional energy is defined as energy which is produced by the QF, scheduled by the transmitting entity and delivered to the point of delivery in an amount that exceeds 10,000 kWh in any single hour. The Agreement provides that Idaho Power is not obligated to purchase optional energy. Idaho Power contends that this arrangement allows Tiber to install generating capacity with a nameplate rating of 10 MW or more while still qualifying to be paid at the posted rates that the Commission has established for projects smaller than 10 MW.

2. Encouraging increased “firmness” of QF contracts.

Although contracts between Idaho Power and QFs have been denominated as “Firm Energy Sales Agreements”, Idaho Power contends that the energy purchased under these contracts is not firm energy as that term is commonly defined by the electric energy industry. Firm energy purchases Idaho Power makes from non-QF suppliers specify the amounts to be delivered during heavy load or light load hours for the term of the contract. If the energy is not delivered in the specified amounts, at the specified times, liquidated damage provisions in the purchase agreement allow Idaho Power to acquire the energy from other sources and receive reimbursement from the defaulting supplier for all the Company’s costs.

In Tiber’s case, Idaho Power contends that the arrangement with Northwestern Energy to firm Tiber’s generation makes the Agreement more like a true firm energy purchase. In an effort to bring QF performance more in line with actual firm energy production and to provide an opportunity for QFs using various generating technologies to receive the posted firm rates based on a QF’s actual performance, Idaho Power and Tiber have included in the Agreement provisions which encourage Tiber to provide energy with a greater degree of firmness while at the same time allowing a reasonable amount of flexibility to Tiber in operating its facility. Reference Agreement Section 1.15—Surplus Energy and Section 7.1.2—Adjustment to Net Firm Energy Purchase Price.

Under Agreement Section 1.15, each month the actual net kW hours of Tiber's generation will be compared to the monthly kW hours of generation estimated by Tiber (Section 6.2). If Tiber's actual kW hours of generation exceeds 110% of a month's estimated kW hours of generation, the energy in excess of 110% is valued at the surplus energy price. Reference Agreement Section 7.2. The surplus energy price is a market-based price.

Under Agreement Section 7.1.2, Tiber's actual net monthly kW hours of generation is compared to the estimated monthly kW hours of generation as described in Section 6.2. If the amount of net firm energy is 90% or less of the month's estimated kilowatt hours of generation, all of that month's generation will be deemed to be surplus energy for which Idaho Power will pay Tiber the surplus energy price.

Under the Agreement, Tiber can reset the monthly estimated generation amounts to reflect its increased operating experience and to allow Tiber to respond to changes in water supplies, etc. The only limitation placed on Tiber by the Company is that the net firm energy estimated for each month cannot exceed the nameplate rating of the generation equipment.

### 3. Seasonality.

Idaho Power notes that previous Commission Orders and QF Agreements have recognized that the value of energy generated differs in accordance with the season in which it is actually delivered to Idaho Power. As an incentive for a QF to deliver energy to the Company during times when it is of greater value to the Company, the posted rates have historically "been seasonalized." To better align the seasons with the months in which Idaho Power has identified actual energy needs, the Agreement modifies the months within each historical "season" to account for those periods of higher demand. The months of August and September have been moved to season 3 and the months of November and December have been moved to season 2. The seasonal rates are identified in Section 7.1.1 of the Agreement. This adjustment, the Company contends, does not change the overall annual average payment—the average payment continues to be the posted rate.

Section 19 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes for purchases of energy to Tiber will be allowed as prudently incurred expenses for ratemaking purposes.

Tiber has elected an operation date of May 15, 2004. Idaho Power recommends that the Application be processed under Modified Procedure, i.e., by written submission rather than by an evidentiary hearing. Reference Rule 201, Commission Rules of Procedure.

YOU ARE FURTHER NOTIFIED that the Commission has reviewed the filings of record in Case No. IPC-E-03-01. The Commission has preliminarily determined that the public interest regarding the submitted Firm Energy Sales Agreement between Idaho Power Company and Tiber Montana LLC may not require a hearing to consider the issues presented, and that issues raised by the Application may be processed under **Modified Procedure**, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204.

YOU ARE FURTHER NOTIFIED that the Commission may not hold a hearing in this proceeding unless it receives written protests or comments opposing the use of Modified Procedure and stating why Modified Procedure should not be used. Reference IDAPA 31.01.01.203.

YOU ARE FURTHER NOTIFIED that **the deadline for filing written comments or protests** with respect to the Application and the Commission's use of Modified Procedure in Case No. IPC-E-03-01 is **Friday, April 4, 2003**. Persons desiring a hearing must specifically request a hearing in their written protests or comments.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the deadline, the Commission will consider the issue on its merits and enter its Order without a formal hearing. If comments or protests are filed within the deadline, the Commission will consider them and in its discretion may set the matter for hearing or may decide the matter and issue its Order based on the written positions before it. Reference IDAPA 31.01.01.204.

YOU ARE FURTHER NOTIFIED that written comments concerning Case No. IPC-E-03-01 should be mailed to the Commission and Idaho Power Company at the addresses reflected below.

COMMISSION SECRETARY  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST  
BOISE, ID 83702-5983

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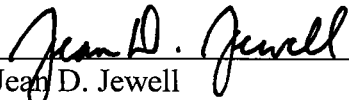
All comments should contain the case caption and case number shown on the first page of this document.

Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at [www.puc.state.id.us](http://www.puc.state.id.us). Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to the Applicant at the e-mail address(es) listed above.

YOU ARE FURTHER NOTIFIED that the Application in Case No. IPC-E-03-01 can be reviewed during regular business hours at the Idaho Public Utilities Commission, 472 West Washington Street, Boise, Idaho and at the principal office of Idaho Power Company, located at 1221 West Idaho Street, Boise, Idaho.

In addition, the Application may be viewed by accessing the Commission's website at [www.puc.state.id.us](http://www.puc.state.id.us) under the "file room" icon and selecting the appropriate topic heading.

DATED at Boise, Idaho this *13<sup>th</sup>* day of March 2003.

  
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Jean D. Jewell  
Commission Secretary

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